SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1947

No. 413

HAZEL PARK NON PARTISAN TAXPAYERS ASSOCIATION, ET AL.,

Appellants,

vs.

TOWNSHIP OF ROYAL OAK, ET AL.

APPEAL FROM THE SUPREME COURT OF THE STATE OF MICHIGAN

STATEMENT BY APPELLEES, EDGAR B. WHITCOMB, ANNA S. WHITCOMB AND CITY OF HIGHLAND PARK, SHOWING LACK OF JURISDICTION OF APPEAL.

Now Come appellees, Edgar B. Whitcomb, Anna S. Whitcomb and City of Highland Park, and show the following matters of record, which disclose that the appellants have no right of review of the decision of the Supreme Court of Michigan in the above entitled cause under the rules and practice of this Court:

1-3. These appellees adopt and hereby incorporate by reference the statement and authorities set forth in the

statement heretofore filed herein by the appellee, Township of Royal Oak, showing lack of jurisdiction of the appeal.

4. *No substantial Federal question is presented.*

Even if the appellants have the right to appeal and possess rights which are entitled to the protection of the 14th Amendment, in the light of the prior decisions of this Court no substantial Federal question is presented and the appeal should be dismissed for want of jurisdiction.

The appellants do not contend that the Michigan Legislature lacks power to authorize the issuance of general obligations by counties and townships for improvements such as those in respect to which the bonds here in question were issued, viz., water and sewers, if it sees fit to do so. Neither do they claim that the Legislature lacked such power at the time the legislation under attack on this appeal was enacted. Having such power, the Legislature could subsequently render such obligations general obligations without running afoul of the 14th Amendment.

Charlotte Harbor Ry. v. *Welles*, 260 U. S. 8, 11;
See also *Seattle* v. *Kelleher*, 195 U. S. 351, 359.

Respectfully submitted,

LEE E. JOSLYN, JR.,
1710 Buhl Building,
Detroit 26, Michigan,
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Detroit 26, Michigan.
Attorneys for Intervening Defendants and Appellees, Edgar B. Whitcomb, Anna S. Whitcomb and City of Highland Park.

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MOTION TO DISMISS OR AFFIRM

Now Come Edgar B. Whitcomb, Anna E. Whitcomb and City of Highland Park, appellees, by Lee E. Joslyn, Jr. and Selden S. Dickinson, their attorneys, and move this Honorable Court:

1. To dismiss the writ of error heretofore issued in the above entitled cause, and all proceedings thereunder for the reason that no Federal question is presented by the record.

2. To dismiss the writ of error heretofore issued in the above entitled cause and all proceedings thereunder

for the reason that no substantial Federal question is presented by the record.

3. In case the foregoing motion is denied, to affirm the decree of the Supreme Court of Michigan for the reason that it is final as to appellant, and the questions involved are so frivolous as to need no further argument.

This motion is based on the records and files in said cause and the statement and authorities heretofore filed in this cause by appellees showing lack of jurisdiction of this Court of said appeal.

Dated at Detroit, Michigan this 9th day of October, 1947.

LEE E. JOSLYN, JR.,
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SELDEN S. DICKINSON,
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Attorneys for Intervening Defendants and Appellees, Edgar B. Whitcomb, Anna S. Whitcomb and City of Highland Park.

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